

removal of the appellant's name due to an unsatisfactory employment record, as explained above.

On appeal, the appellant argues that while his removals were based on an unsatisfactory employment record he has no disciplinary actions pending against him and he is currently in good standing as a Supervising Family Services Specialist 2. Additionally, the appellant provides job accomplishments since January 2017. He also states that he has maintained a satisfactory Performance Assessment Ratings (PARs) and provides a copy of his most recent PAR. The appellant also submits copies of email accolades for a recent presentation. Further, the appellant provides a letter of recommendation from his current supervisor documenting the appellant's work accomplishments and listing him as an asset.

In response, the appointing authority states that its past practice and long standing administrative policy is that a major discipline sanction serves as a bar to appointment from an eligible list for three years. It indicates that the appellant received an FNDA dated November 7, 2016 for a 15-day suspension and that the eligible lists promulgated January 11, 2017 and May 25, 2017.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)7, allows the removal an individual from an eligible list who has a prior employment history which relates adversely to the position sought. *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

Initially, the Civil Service Commission (Commission) notes that it is not bound by criteria utilized by the appointing authority and must decide each list removal appeal on the basis of the record presented. *See In the Matter of Victor Rodriguez* (MSB, decided July 27, 2005), and *In the Matter of Debra Dygon* (MSB, decided May 23, 2000). As such, DCF's past practice or long standing administrative policies do not determine whether the Commission can restore or remove an eligible's name from a list.

In the instant matter, the appellant's name appeared on certifications issued on April 25, 2017, May 17, 2017, May 26, 2017, and June 1, 2017 of the subject eligible lists. The appointing authority removed the appellant's name from the subject eligible lists due to him receiving a major discipline on November 7, 2016 and that the eligible lists promulgated January 11, 2017 and May 25, 2017. The November 7, 2016 FNDA and February 1, 2017 Mediation Disposition indicated that the appellant received a 15-day suspension on charges. However, other than to note that he does not have any pending disciplinary matters, the appellant does not

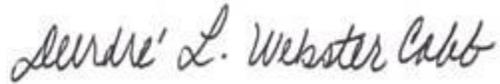
address his disciplinary record on appeal. The Commission notes that the appellant's disciplinary action occurred within three months of the promulgation of the Supervising Family Services Specialist 1 (PS1032K) eligible list and within seven months of the County Services Specialist (PS0670K) eligible list, and it is appropriate to consider it when reviewing the appellant's employment history. Moreover, the appellant's disciplinary history clearly relates adversely to the titles sought, Supervising Family Services Specialist 1 and County Services Specialist. *See e.g., In the Matter of John Bonafide*, Docket No. A-1658-04T1 (App. Div. February 7, 2006) (Removal from Sheriff's Officer Lieutenant promotional list upheld for Sheriff's Officer Sergeant who received a six-month suspension for misuse of public property three months prior to the certification of his name for appointment); *In the Matter of Howard Doherty, Correction Sergeant, Department of Corrections (PS7099I)*, Docket No. A-4959-01T1 (App. Div. April 5, 2004) (Removal from Correction Sergeant promotional list upheld for Senior Correction Officer with 25 minor disciplinary actions, 24 of which were imposed for attendance-related infractions); *In the Matter of Frank R. Jackson, Correction Lieutenant, Department of Corrections (PS6320I)*, Docket No. A-1617-00T2 (App. Div. March 28, 2002) (Removal from Correction Lieutenant promotional list upheld for Correction Sergeant whose disciplinary record included two official reprimands for absenteeism and a 30-day suspension for falsification of a report, despite the recommendation of his immediate supervisor); *In the Matter of Albert S. Waddington, County Correction Sergeant (PC0349T), Camden County*, Docket No. A-568-99T2 (App. Div. December 5, 2000) (Removal from County Correction Sergeant promotional list upheld for County Correction Officer with a lengthy list of counseling reports, poor evaluations, reprimands, minor disciplinary sanctions and two major disciplinary actions over approximately 13 years). Accordingly, based on the foregoing, the Commission finds that the appellant's employment history constitutes sufficient cause to remove his name from the eligible list for Supervising Family Services Specialist 1 (PS1032K), Department of Children and Families and County Services Specialist (PS0670K), Department of Children and Families

ORDER

Therefore, it is ordered that these appeals be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 4TH DAY OF APRIL, 2018



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